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July 22, 2005

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Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: MB Docket No. 05-192, Petition to Condition Approval of Application to Transfer
Control of CARS Stations filed by the City of San Buenaventura, California-
Errata

Dear Ms. Dortch:

We have discovered that page 2 of the Petition to Condition Approval of Application to Transfer Control of CARS Stations filed by the City of San Buenaventura, California on July 21, 2005 was inadvertently omitted. Please accept for filing an original and six copies of that same document which include the missing page 2. We deeply regret any inconvenience this oversight may have caused. Please contact us should you have any questions regarding the enclosed documents.

Very truly yours,

Miller & Van Eaton, P.L.L.C.

By


Marci L. Frischkorn

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Applications for Consent to the Assignment)
and/or Transfer of Control of Licenses)

MB Docket No. 05-192

Adelphia Communications Corporation,)
(and subsidiaries, debtors-in-possession),)
Assignors,)

to)

Time Warner Cable Inc. (subsidiaries),)
Assignees;)

Adelphia Communications Corporation,)
(and subsidiaries, debtors-in-possession),)
Assignors and Transferors,)
to)

Comcast Corporation (subsidiaries),)
Assignees and Transferees;)

Comcast Corporation, Transferor,)
to)

Time Warner Inc., Transferee;)

Time Warner Inc., Transferor)
to)

Comcast Corporation, Transferee.)

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JUL 22 2005

Federal Communications Commission
Office of Secretary

**PETITION TO CONDITION APPROVAL
OF APPLICATION TO TRANSFER CONTROL OF CARS STATIONS**

1. Pursuant to Section 78.22 of the Commission's rules, and in response to the Commission's June 2, 2005, public notice of the submission of the above-referenced

application ("License Transfer Application"),¹ the City of San Buenaventura, California ("City"), by its attorneys, hereby objects to the License Transfer Application to the extent that it seeks Commission approval for assignment of the licenses of Cable Television Relay Service ("CARS") Stations listed in Exhibit P of the License Transfer Application without reference to the necessary local approvals of the transfer of the underlying cable systems. For the reasons stated herein, the City respectfully requests that any approval of the License Transfer Application be expressly made subject to the condition that the transactions shall not be consummated unless and until the franchising authorities for franchise areas which are served by the cable systems to which those licenses relate approve the transfer of control of the underlying cable system to the proposed transferees.²

2. The current cable franchisee in Ventura is Century-TCI California, L.P. ("Franchisee" or "Century"), a partnership of Adelphia and Comcast, controlled by Adelphia.

3. The City granted a cable television franchise ("Franchise") to the Franchisee, via ordinances passed and approved by the City Council (as amended from time to time, the "Franchise Documents").³

¹ FCC Public Notice, DA-05-1591, released June 2, 2005.

² The proposed license transfers and assignments are associated with a series of transactions ("Transactions") that when completed will effectuate the sale of certain cable systems and assets of Adelphia and its affiliates and related entities to subsidiaries or affiliates of Time Warner; the sale of certain cable systems and assets of Adelphia to subsidiaries or affiliates of Comcast; the exchange of certain cable systems and assets between affiliates or subsidiaries of Time Warner and Comcast; and the redemption of Comcast's interest in Time Warner Cable Inc. ("Time Warner Cable") and Time Warner Entertainment Company, L.P. ("TWE").

³ The terms of the Ventura franchise and applicable local law include: Century Cable of Northern California Cable Franchise (San Buenaventura City Ord. No. 99-39, dated 8 Nov. 1999); the Change of Control and Transfer Agreement (San Buenaventura City Ord. No. 99-117, effective November 8, 1999); the Settlement Agreement (San Buenaventura City Ord. No. 99-123,

4. The Franchise Documents⁴ preclude any assignment or transfer of the Franchise or any change in the ownership of the Franchisee's parent corporation without the prior written consent of the City.

5. On or about June 14, 2005, the Franchisee submitted to the City certain documents including FCC Form 394 ("Franchise Transfer Application"), requesting the City to acknowledge and approve the assignment and transfer of control of the Franchise and the cable system from Franchisee to a certain subsidiary of Time Warner Cable.

6. The subject License Transfer Application was filed with the Commission on May 18, 2005. Exhibit P to the License Transfer Application seeks approval for the transfer of numerous FCC licenses, including among others four licenses for CARS Stations used by the Franchisee, Century-TCI California, L.P.⁵

7. The City, like other affected local franchising authorities across the country, is currently reviewing the Franchise Transfer Application and attempting to determine whether the transferee has the financial, legal, technical and other qualifications to control and/or operate the Franchisee's cable system, whether there are outstanding issues that should be resolved prior to the proposed transfer, and whether the public interest will be adversely

effective December 8, 1999); Ord. No. 99-38, codified in the City of San Buenaventura Municipal Code, Chapter 6.460 Cable Television Franchises, as amended.

⁴ Section 6.460.272 of the Ventura Municipal Code requires the Franchisee to provide prompt notification of any proposed transfer and to submit an application for approval. Section 3.1 of the Franchise Agreement and Section 6.460.200(C) of the Ordinance likewise require an application be filed with the City for a Transfer of a cable franchise.

⁵ These CARS Station Licenses are: WHZ-879, Baldwin Hills, CA; WHZ-880, Santa Monica, CA; WHZ-886, Pine Cove, CA; WLY-269, Hemet, CA.

affected by the proposed transaction. To this end, the City is requesting additional information from the Franchisee and the transferee.

8. If the transfer of an underlying cable system is not approved, then the assignment of the FCC licenses (including CARS station licenses) necessary to operate that system would be pointless, or could even deprive the cable operator of the licenses necessary to operate the system.

9. In these circumstances, the Commission should condition any approval of the License Transfer Application upon the approval of the proposed transactions by the franchising authorities for franchise areas which are served by the cable systems to which those licenses relate. In doing so, the Commission will be following the precedent it established in *Letter to Jill Abeshouse Stern*, 4 F.C.C. Rcd 5061 (1989) ("*Stern*"). In *Stern*, the Commission conditioned its approval of a CARS station from Rogers U.S. Holdings Limited ("*Rogers*") to KBL Cable, Inc. ("*KBL*"). At that time, the City of Laredo was considering an application for approval of the transfer of the same franchise. The City objected to the transfer of the CARS station arguing that, among other things, "since the local franchising authority has not yet granted a transfer of the franchise, KBL is not yet eligible for a CARS license under Section 78.13 of the Commission's rules."⁶

10. In *Stern*, the Commission acknowledged that in order to be eligible to hold a CARS license "an entity must establish that it meets the definition of a cable television system and that it holds a franchise to serve the relevant location."⁷ The Commission recognized that a CARS transferee could not hold a CARS license until the transfer of the cable system was

⁶ *Stern*, 4 FCC Rcd at 5061.

⁷ *Id.* at 5061, quoting *C & S Trenching Co., Inc.*, 2 FCC Rcd 116 (1987).

consummated and the transferee became the cable franchisee. Hence, the Commission conditioned its approval of the transfer of control of the CARS station upon the approval by the City of the transfer of the underlying franchise.

11. The circumstances here are directly analogous to those which led to the imposition of the express condition in *Stern*, and the same public interest considerations apply. In the instant matter the Commission is again being asked to approve the transfer of control of CARS station licenses, among others, at the same time that local franchising authorities are considering the transfer of control of the franchises associated with those licenses. However, unless and until the transactions have been approved by the relevant franchising authority, the transferee will not satisfy the requisites for eligibility to hold a CARS license set forth by the Commission in *Stern* and in the Commission's rules at 47 C.F.R. § 78.13. Moreover, as noted above, assignment of any FCC licenses necessary to operate a system would be pointless or counterproductive if the system were not in fact transferred. Therefore, for the same reasons as in *Stern*, the Commission's approval of the License Transfer Application must be conditioned upon local franchising authorities' approval of the a transfer of control of the franchises associated with the CARS licenses listed in Exhibit P. The same basic rationale for such a condition would apply to the other licenses listed in Exhibit P.

12. The public also has an interest in avoiding the extra administrative burdens upon the Commission that could result from an unconditional approval of the proposed license transfers which would have to be reversed if a local franchising authority disapproves a request for approval of the transactions.

13. The cable system and the radio facilities will both continue in operation. Hence, there is no potential for discontinuation of service to the public as a result of attachment of the requested condition.

WHEREFORE, the City respectfully request that any approval of the subject License Transfer Application be expressly conditioned as requested herein.

Respectfully submitted,

By 

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Attorneys for the City of San Buenaventura, California

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Petition to Deny, Dismiss or Condition Approval of Application was served this 21st day of July, 2005, by first-class mail, postage prepaid, on the following:

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A handwritten signature in black ink, appearing to read 'Marci L. Frischkorn', written over a horizontal line.

Marci L. Frischkorn

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Errata for the Petition Condition Approval of Application for Transfer of CARS Stations was served this 22d day of July, 2005, by first-class mail, postage prepaid, on the following:

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